

411.095 Liability for stealing or damaging goods of retailer or wholesaler.

- (1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars (\$500), plus an additional penalty to the owner of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).
- (2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars (\$500), plus an additional penalty to the owner of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for Health and Family Services, or any agency thereunder.
- (3) For the purposes of this section, "owner" shall include any agent or employee of the owner.
- (4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.
- (5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.
- (6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.
- (7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.
- (8) Judgments, but not claims, arising under this section may be assigned.
- (9) In addition to any civil damages or penalties, or both, which may be recovered under this section, a judgment for recovery shall also include court costs.
- (10) Civil claims under this section shall apply to those claims which arise after July 13, 1990.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 646, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 598, effective July 15, 1998. -- Created 1990 Ky. Acts ch. 162, sec. 1, effective July 13, 1990.